

RETAIL ENERGY SUPPLY ASSOCIATION

SURREPLY COMMENTS IN 14-NOI-01

I. INTRODUCTION

On September 30, 2014, the Illinois Commerce Commission (“Commission”) entered an order, initiating a Notice of Inquiry (“NOI”) proceeding, 14-NOI-01, regarding retail electric market issues. In its NOI Order, the Commission requested comments on numerous questions related to various topics. On November 6, 2014, the Retail Energy Supply Association (“RESA”)¹ submitted Initial Comments in this NOI proceeding. On December 3, 2014, RESA submitted Reply Comments in this proceeding. Reply Comments were also submitted by a number of other parties. On December 8, 2014, a workshop was held in this proceeding, at which time the Case Manager requested expanded discussion of various topics.

In these Reply Comments, RESA, after making some general comments, will address the following issues:

- Electric utilities should be required to place the names logos of Retail Electric Suppliers (“RES”) on their consolidated bills
- “Green” Energy

¹ RESA’s members include AEP Energy, Inc.; Champion Energy Services, LLC; ConEdison *Solutions*; Constellation NewEnergy, Inc.; Direct Energy Services, LLC; Dynegy Energy Services; GDF SUEZ Energy Resources NA, Inc.; IDT Energy, Inc.; Interstate Gas Supply, Inc. d/b/a IGS Energy; Just Energy; Liberty Power; MC Squared Energy Services, LLC; Mint Energy, LLC; NextEra Energy Services; Noble Americas Energy Solutions LLC; Nordic Energy Services, LLC; NRG Energy, Inc.; PPL EnergyPlus, LLC; Stream Energy; TransCanada Power Marketing Ltd.; and TriEagle Energy, L.P.. The comments expressed in this filing represent the position of RESA as an organization but may not represent the views of any particular member of RESA.

- Definition of “Fixed” and “Variable”
- Guidelines for Variable Rates
 - Disclosure of historical prices
 - Disclosure of upcoming price
- Accelerated Switching/Off-Cycle Switching
- Bill Messages to increase traffic to PlugInIllinois.org

II. GENERAL COMMENTS

A. The Commission should utilize the authority it has under the Public Utilities Act and its existing rules before considering the adoption of additional rules.

The Public Utilities Act provides substantial authority to the Commission to regulate important aspects of the operations of ARES (see, for example, 83 Ill. Admin. Code Part 451, Certification of Alternative Retail Electric Suppliers, and 83 Ill. Admin. Code Part 412, Obligations of Retail Electric Suppliers. Moreover, the workshops in this proceeding have not disclosed any specific problems that cannot be addressed by existing rules. Consequently, while RESA is generally not opposed to adopting additional rules or revising existing rules if the result will be beneficial to customers, the Commission should closely examine the actions it can take under its existing rules. For example, if an ARES were violating the Commission’s existing rules, such as rules relating to marketing its products, the Commission should enforce those existing rules against that ARES before considering whether to impose new or additional rules on all ARES.

B. This Notice of Inquiry Proceeding Should Not Be Viewed as an Opportunity to Micromanage ARES' Operations.

The Commission's authority over ARES is more limited than its authority over public utilities, including electric public utilities. The Commission should be careful not to attempt to over-regulate or micromanage ARES. The results of any attempt at such over-regulation would be to limit the number of electric suppliers willing to operate as ARES in the state of Illinois and to limit the products that ARES are willing to offer to customers. The pressures brought to bear by consumer behavior on ARES activities provide the basis for a more efficacious manner in which to promote consumer wellbeing.

C. ARES Products Should not be Disadvantaged Over the Default Generation Supply Price as a Result of Newly Enacted Rules

If the Commission is considering new consumer protection rules, the Commission should be mindful of the effect that those rules will have on the development of the competitive retail electric market. RESA is not opposed to reasonable consumer protections, *but all products should be treated equal in the market.* However, many of the consumer protections proposed by other parties in this proceeding would unnecessarily increase operating costs on RESs, and otherwise restrict RESs from offering products in the market, without placing the same requirements on default supply service.

III. NAME AND LOGO

Electric utilities should be required to display the RES' logo on a utility consolidated bills. Putting the logo on utility bills would help eliminate confusion on the part of RES customers, especially customers of opt-out municipal aggregations who may not even be aware

that they were switched to a competitive supplier. The supplier's logo may in fact be the most prominent and frequent reminder that they are on competitive supply.

In Ohio, once the order of the Public Utilities Commission has been fully implemented, the supplier logo will be placed next to the supplier charges in the same size as the utility logo. Also, if the utility's logo is in color then the supplier's logo must be in color. Note also that the Ohio Commission deferred collection of the costs of bill formatting changes to the electric utilities' next distribution rate cases. (Order in Docket 12-3151-EL-COI, pp. 26, 29)

Attached to these Surreply Comments is a sample bill format proposed by Toledo Edison in Case No. 14-1297-EL-SSO before the Public Utilities Commission of Ohio which shows the placement of the name and logo of a retail supplier on the utility consolidated bill. Toledo Edison proposed an implementation date for putting supplier logos on consolidated bills no later than June 30, 2015.

IV. "GREEN" ENERGY

RESA has previously addressed the subject of whether the Commission should add a "% renewable column" column to the PlugInIllinois website, RESA responded that it would not object to including this information if the Commission believes it adds value and there is not an undue cost to update the website. (RESA Reply Comments, p. 4)

At the December 8 workshop, the Case Manager asked parties to address the issue of two columns on the website—one for Renewable Energy Credits ("RECS") and one for all other renewable energy resources. RESA does not support the addition of a second column because it may incorrectly suggest that using RECs is an inferior form of renewable energy resource. In its

Reply Comments, RESA referenced the Commission’s Order in Ill. C. C. Docket 10-0563, which rejected the position of some parties who had argued that RECs were inferior to other forms of renewable energy resources, finding that RECs are renewable energy resources within the meaning of the IPA Act. (Order in Docket 10-0563, dated December 21, 2010, p. 83)

V. DEFINITION OF “FIXED” AND “VARIABLE”

At the December 8, 2014, workshop, parties were asked to comment on the following proposed definitions for “fixed” and “variable” offered by the Illinois Competitive Energy Association (“ICEA”):

- Fixed Price Product—“A product where other than for a legal, regulatory, utility or non-market based change the price does not change and remains fixed for a minimum of 3 months.”
- Index Variable Product—“A product in which the price changes more frequently than every 3 months other than for legal, regulatory, utility or non-market based changes and the price changes are wholly in direct and formulaic correlation to an index.”
- Non-Index Variable Product—“A product that changes more frequently than every 3 months other than for legal, regulatory, utility or non-market based changes and which price is not formulaically tied directly to an index.”

(ICEA Reply Comments, pp. 4-5)

As stated in our Initial Comments, RESA believes the terms “fixed” and “variable” are clear. However, if the Commission believes there is a need to define the terms, RESA referenced the natural gas definitions for “Fixed Price” and “Variable Price” that can be viewed on the Commission’s website. One advantage of definitions similar to those used by the Commission

on the gas side, is that they are broader than those proposed by other parties in this proceeding, including ICEA. For example, if a RES offered a product with a one-month introductory rate, then a different fixed rate for another 11 months, is that a fixed rate product or a variable rate product under ICEA's definitions? Also, do pass-through items set forth in a contract transform what would otherwise be a fixed rate product into a variable rate product? In any event, the definitions should be considered guidelines, as opposed to rigid standards that RESs would have to adhere to in product offers and terms and conditions of service.

VI. GUIDELINES FOR VARIABLE RATES

A. HISTORICAL INFORMATION

CUB reversed its position regarding the disclosure of historical prices. In its Initial Comments, CUB argued that "all historic depictions of utility prices shall display at least three years of data in no greater than quarterly increments and shall also display the RES's offered price for the same or equivalent product[s] or service[s] for each of the same increments. In its Reply Comments, CUB recommends a disclosure of historic variable prices charged over the last twelve months to customers of the supplier on variable rate plans. (CUB Reply Comments, p. 1)

In its Reply Comments, RESA stated that CUB's argument for three years historical data is not appropriate. As last winter demonstrated, historical prices are not a good predictor of current or future prices. There was no better illustration of this than the 2013-2014 Winter in the Northeast where the Polar Vortex resulted in electricity rates that far exceeded both recent and historical rates. (RESA Reply Comments, pp. 9, 12) Limiting the disclosures to twelve months of data does not remedy this fundamental problem.

At the December 8, 2014, the Case Manager suggested disclosure of the high price and the low price over the last 12 months. RESA does not support this suggestion. Providing a high and low price suggests a range which may or may not have any relevance to future prices. It provides the customer with no actionable data that helps him or her choose a product. In fact, it may mislead a customer into thinking that there is a cap or floor.

B. DISCLOSURE OF UPCOMING PRICE CHANGES

CUB argues that the RES should be required to notify its customers of the rate for their following month's supply either on each monthly bill or in a print or electronic communication, prior to the month the charges will begin to be incurred under the new rate. (CUB Reply Comments, p. 2)

ICEA states that it agrees with CUB that customers on variable products are presently inadequately served by current practice and that more robust noticing requirements/furnishing of information to these customers would substantially benefit the customers, the residential electric market and retail choice. (ICEA Reply Comments, p. 7) ICEA references new requirements in Pennsylvania which state that a supplier must make available to customers being served on Managed Month-to-Month products with the upcoming month's rate between 45 days and 60 days. (*Id.*, pp. 7-8) Absent accelerated switching (see next section of these Surreply Comments), there does not appear to be any point to a requirement that attempts to micro-manage the RES' operations by dictating notice requirements.

VII. ACCELERATED SWITCHING/OFF-CYCLE SWITCHES

The topic of accelerated switching has been raised during the workshops in this NOI proceeding. RESA's position is that accelerated switching would improve the retail market by

reducing the current time it takes for the electric utilities to effectuate a customer's decision to switch electric suppliers. One of the problems experienced in the Northeast during last winter's polar vortex was the inability of customers to quickly switch suppliers in response to increases in variable rates. A number of states such as Connecticut, Maryland and Pennsylvania are addressing this issue. The Illinois Commerce Commission should do the same for Illinois residential customers. Moreover, given the deployment of AMI in Illinois, this should assist in the acceleration of switching times. In this regard, the deployment of AMI in Illinois should enable off-cycle switching for residential customers.

VIII. BILL MESSAGES TO INCREASE TRAFFIC TO PLUGINILLINOIS.ORG

At the December 8, 2014, workshop, the Case Manager requested that parties address ComEd's opposition to ICEA's proposal that Ameren and ComEd consider adding periodic bill messages to encourage customers to check PlugInIllinois.org for the latest information about bundled and competitive rates. RESA agrees with ICEA that if the goal is to increase customer awareness of the retail electric market in Illinois by encouraging customers to visit the Commission's website, all avenues should be considered. Messages on the electric utilities' consolidated bills would be a good method to encourage visits to the Commission's website.

IX. CONCLUSION

RESA appreciates the opportunity to submit these Surreply Comments. RESA requests that the Commission consider these Surreply Comments in analyzing the issues addressed herein. RESA intends to remain active in this NOI proceeding and in any proceeding that is established as a result of this NOI proceeding and provide thought-leadership on the issues wherever possible.

Respectfully submitted,

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